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CYM-025
2024738-2247387003
11.009011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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TC 1700

In re Application of:

Roy Ostgaard, et al

Serial No.: 09/156,952

Filed: September 18, 1998

For: SAMPLE VIAL FOR USE IN
PREPARING CYTOLOGICAL SPECIMEN

) Group Art Unit: 1743

) Confirmation No.: 1770

) Appeal No.: 2003-1946

) Examiner: Patricia K. Bex

PETITION UNDER 37 C.F.R. §1.181 REQUESTING WITHDRAWAL OF
ABANDONMENT AND REINSTATEMENT OF APPLICATION

M/S: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This petition under 37 CFR §1.181 is to request withdrawal of the holding of abandonment, and reinstatement of the above-referenced patent application.

According to the Notice of Abandonment mailed January 27, 2004, the above-identified application was abandoned for alleged expiration of the period to seek Court review of the Decision by the Board of Patent Appeal on October 22, 2003. However, as evidenced herein, a Request for Continued Examination (RCE), including the fee set forth in 37 CFR 1.17 (e) and an amendment and response to the previous office action, was timely submitted and received by the United States Patent and Trademark Office on the deadline of December 22, 2003.

As demonstrated, inter alia, in the Patent Application Information Retrieval (PAIR) website, the mailing of BPAI Decision on Appeal was on October 22, 2003, and

receipt of Applicant's RCE was on December 22, 2003, thus, the later being timely mailed and received within two months of the Board's decision under 37 CFR 1.304. As such, the abandonment of the application is in error. Because this error is believed to be entirely that of the United States Patent and Trademark Office, this petition to withdraw abandonment is brought under 37 C.F.R. §1.181, and no fee is believed due.

Submitted herewith is the declaration of David T. Burse in support of the requested withdrawal of abandonment and reinstatement of the application, as well as documentation, attached as Exhibits A to C.

Favorable action on this petition is respectfully requested.

Although no fee is believed to be required, the Commissioner is hereby authorized to charge any fee which may be required, or credit any overpayment to Deposit Account No. **50-2518**.

Respectfully submitted,
BINGHAM McCUTCHEN LLP

Dated: February 23, 2004

By: David T. Burse
David T. Burse
Reg. No. 37,104

Customer Number
23639
PATENT TRADEMARK OFFICE

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PETITION TRANSMITTAL

Mail Stop: Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for the above-identified application are the following:

- ☒ Petition requesting withdrawal of abandonment and reinstatement of application (2 pages);
- ☒ Statement by David Burse (1 page);
- ☒ Exhibit A: Copy of Request for Continued Examination (RCE), including fee and a submission (11 pages);
- ☒ Exhibit B: Copy of Notice of Abandonment (2 pages);
- ☒ Exhibit C: Copy of Patent Application Information Retrieval (PAIR) print out for the above application (3 pages);

CERTIFICATE OF MAILING (37 C.F.R. §1.8)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Services on the date shown below with sufficient postage as "First Class Mail" to addressee in an envelope addressed to the Commissioner for Patents, Alexandria, VA 22313-1450

February 23, 2004
Date of deposit
PA:52127667.1/2024738-2247387003

Maritza Kidd
Name of Person transmitting Paper
Signature of Person depositing Paper

- ☒ Transmittal with certificate of Mailing (2 pages); and
☒ Return receipt postcard.

Respectfully submitted,
BINGHAM McCUTCHEN LLP

Dated: Feb 23, 2004

By: David T. Burse
David T. Burse
Reg. No. 37,104

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